

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
BEAUFORT DIVISION

MICHAEL R. HARKNESS,

Plaintiff,

v.

MICHAEL J. ASTRUE,  
Commissioner of Social Security,

Defendant.

Civil Action No. 9:10-0103-JMC-BM

**ORDER**

Defendant, Michael J. Astrue, Commissioner of Social Security, by his attorneys, William N. Nettles, United States Attorney for the District of South Carolina, and Marvin J. Caughman, Assistant United States Attorney, has moved this Court, pursuant to 42 U.S.C. § 405(g), to enter a judgment with an order of reversal with remand of the cause to the Commissioner for further administrative proceedings.

On order of the Court, this case will be remanded to the Appeals Council. The Appeals Council will direct the ALJ to:

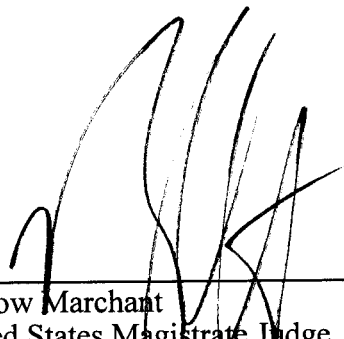
- consider and/or reconsider the opinions of Drs. Kithianis, Robbins, McClain, Vidic, and Warren in accordance with the Commissioner's regulations;
- further consider the lay witness evidence;
- further consider the issue of Plaintiff's non-compliance in accordance with Social Security Ruling 82-59;
- further evaluate Plaintiff's residual functional capacity in accordance with the Commissioner's regulations; and
- if necessary, obtain evidence from a medical expert and a vocational expert.

Pursuant to the power of this Court to enter a judgment affirming, modifying, or reversing the Commissioner's decision with remand in Social Security actions under sentence four of 42 U.S.C. § 405(g), and in light of the Commissioner's request for remand of this action for further proceedings, this Court hereby

*[Handwritten signature]*  
*[Handwritten initials]*

**REVERSES** the Commissioner's decision under sentence four of 42 U.S.C. § 405(g) with a **REMAND** of the cause to the Commissioner for further administrative proceedings as set out above.<sup>1</sup> *See Shalala v. Schaefer*, 509 U.S. 292 (1993).

**IT IS SO ORDERED.**

  
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Bristow Marchant  
United States Magistrate Judge

November 16, 2010.

Charleston, South Carolina

*see Stanley Order 190-3FBH*

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<sup>1</sup>The clerk of the Court will enter a separate judgment pursuant to the Federal Rules of Civil Procedure, Rule 58.

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